

AMENDED IN SENATE MAY 28, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1386

Introduced by Assembly Member Shirley Horton
(Principal coauthor: Assembly Member Correa)

February 21, 2003

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as amended, Shirley Horton. Contractors.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law authorizes a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract.

This bill would, except as specified, authorize a person who utilizes a contractor with a *an inactive*, suspended, or revoked license to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to ~~the suspended or revoked~~ *that* licensee for performance of any act or contract. The bill would specify that a contractor who in good faith submits an application to renew an unexpired license shall not be deemed to have actual or constructive knowledge that he or she was unlicensed when the invalidity is caused

by the failure of the board to act on the renewal application prior to the license expiration date.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7031 of the Business and Professions
2 Code is amended to read:

3 7031. (a) Except as provided in subdivision (e), no person
4 engaged in the business or acting in the capacity of a contractor,
5 may bring or maintain any action, or recover in law or equity in any
6 action, in any court of this state for the collection of compensation
7 for the performance of any act or contract where a license is
8 required by this chapter without alleging that he or she was a duly
9 licensed contractor at all times during the performance of that act
10 or contract, regardless of the merits of the cause of action brought
11 by the person, except that this prohibition shall not apply to
12 contractors who are each individually licensed under this chapter
13 but who fail to comply with Section 7029.

14 (b) Except as provided in subdivision (e), a person who utilizes
15 the services of an unlicensed contractor may bring an action in any
16 court of competent jurisdiction in this state to recover all
17 compensation paid to the unlicensed contractor for performance of
18 any act or contract.

19 (c) A security interest taken to secure any payment for the
20 performance of any act or contract for which a license is required
21 by this chapter is unenforceable if the person performing the act
22 or contract was not a duly licensed contractor at all times during
23 the performance of the act or contract.

24 (d) If licensure or proper licensure is controverted, then proof
25 of licensure pursuant to this section shall be made by production
26 of a verified certificate of licensure from the Contractors' State
27 License Board which establishes that the individual or entity
28 bringing the action was duly licensed in the proper classification
29 of contractors at all times during the performance of any act or
30 contract covered by the action. Nothing ~~herein~~ *in this subdivision*
31 shall require any person or entity controverting licensure or proper
32 licensure to produce a verified certificate. When licensure or



1 proper licensure is controverted, the burden of proof to establish
2 licensure or proper licensure shall be on the licensee.

3 (e) The judicial doctrine of substantial compliance shall not
4 apply under this section where the person who engaged in the
5 business or acted in the capacity of a contractor has never been a
6 duly licensed contractor in this state or has performed work with
7 ~~a suspended~~ *an inactive, suspended,* or revoked license. However,
8 notwithstanding subdivision (b) of Section 143, the court may
9 determine that there has been substantial compliance with
10 licensure requirements under this section if it is shown at an
11 evidentiary hearing that the person who engaged in the business or
12 acted in the capacity of a contractor (1) had been duly licensed as
13 a contractor in this state prior to the performance of the act or
14 contract, (2) acted reasonably and in good faith to maintain proper
15 licensure, (3) did not know or reasonably should not have known
16 that he or she was not duly licensed when performance of the act
17 or contract commenced, and (4) acted promptly and in good faith
18 to reinstate his or her license upon learning it was invalid. A
19 contractor who in good faith submits an acceptable application to
20 renew an unexpired license shall not be deemed to have actual or
21 constructive knowledge that he or she was unlicensed when the
22 invalidity is caused solely by the failure of the board to act on the
23 renewal application prior to the license expiration date.

24 (f) The exceptions to the prohibition against the application of
25 the judicial doctrine of substantial compliance found in
26 subdivision (e) shall apply to all contracts entered into on or after
27 January 1, 1992, and to all actions or arbitrations arising
28 therefrom, except that the amendments to subdivisions (e) and (f)
29 enacted during the 1994 portion of the 1993–94 Regular Session
30 of the Legislature shall not apply to either of the following:

31 (1) Any legal action or arbitration commenced prior to January
32 1, 1995, regardless of the date on which the parties entered into the
33 contract.

34 (2) Any legal action or arbitration commenced on or after
35 January 1, 1995, if the legal action or arbitration was commenced
36 prior to January 1, 1995, and was subsequently dismissed.

O

